United Nations A/HRC/WG.6/32/AFG/2

General Assembly

Distr.: General
15 November 2018

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Thirty-second session
21 January–1 February 2019

Compilation on Afghanistan

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1–2]

2. The Committee against Torture invited Afghanistan to ratify the core human rights treaties to which it was not yet party.[3]

3. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Afghanistan consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[4]

4. The Committee against Torture welcomed the commitment of Afghanistan to remove the reservation regarding article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and invited Afghanistan to consider making the declarations under articles 21 and 22 of the Convention.[5]

5. The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Assistance Mission in Afghanistan (UNAMA) noted that discussions for a possible visit by the Special Rapporteur on the situation of human rights defenders had been held in 2016 and 2017 but no visit was planned in the near future.[6]

6. Afghanistan contributed financially to OHCHR in 2015.[7]

III. National human rights framework[8]

7. The Committee against Torture remained concerned by the reports from the Afghanistan Independent Human Rights Commission that its monitoring staff members had

limited access to custody and detention centres.[9] OHCHR/UNAMA noted that the Commission had maintained A status and was in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It had actively engaged with the United Nations human rights mechanisms, submitted various reports to the United Nations treaty bodies and to the universal periodic review and maintained constructive engagement with OHCHR/UNAMA. However, OHCHR/UNAMA noted the absence of an explicit, legally defined selection process, which had allowed the President to assume complete authority over the appointment of commissioners, without oversight or checks and balances of any sort.[10] The Committee against Torture recommended that Afghanistan continue allocating additional and adequate budgetary resources to the Afghanistan Independent Human Rights Commission; enable it to make regular and unannounced visits to all places of detention, including those controlled by the armed forces and international forces; and enable all personnel of the Commission to safely conduct their work without fear of reprisals.[11]

8. The Committee against Torture requested that Afghanistan ensure that the new Law on the Prohibition of Torture was properly enforced and that penalties and statutory limitations were commensurate with the gravity of the crime. It also requested that Afghanistan amend its legislation to prohibit all forms of corporal punishment as they amounted to torture and cruel, inhuman or degrading treatment or punishment, in violation of the Convention against Torture.[12]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[13]

9. UNAMA encouraged the Government to continue to strengthen efforts to protect all ethnic and religious communities, to mitigate ethnic, tribal and sectarian tensions among Afghans, and to prohibit by law any advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence.[14]

2. Development, the environment, and business and human rights[15]

10. UNHCR noted that sustained levels of conflict-induced displacement, combined with the high number of Afghan nationals who continued to return to Afghanistan, far exceeded the absorption capacity of health-care facilities, schools, housing, urban infrastructure and local employment markets. After four decades of conflict, there were enormous economic and development challenges that could not be remedied by humanitarian aid alone. As the Government prioritized expenditure for security purposes, very few resources were allocated for development and basic services. UNHCR recommended that the Government advance towards the realization of its development plans with the support of development actors and the international community.[16]

3. Human rights and counter-terrorism[17]

11. The Committee against Torture recommended that Afghanistan ensure, in law and in practice, that all detainees, including detainees suspected of terrorism or other security-related offences, were afforded all fundamental legal safeguards. The Committee recommended penalizing any failure by officials to do so and ensuring that all detainees had the right to access legal counsel, to request and receive a medical examination, and to be held in custody in conformity with the time limits set out in the Criminal Procedure Code.[18]

B. Civil and political rights

1. Right to life, liberty and security of person[19]

12. The Committee against Torture remained concerned by the high number of prisoners on death row (which currently amounted to 600), the tremendous delay in carrying out their sentences and the conditions of their detention. The Committee was also concerned by cases of executions of minors. It recommended that Afghanistan consider an immediate moratorium on executions and commute all existing death sentences for offenders who had committed the crime for which they had been sentenced while under the age of 18.[20]

13. OHCHR/UNAMA observed that following the transition of combat from international military forces to the Afghan National Defence and Security Forces at the end of 2014, the security situation in Afghanistan had worsened. Afghan civilians continued to suffer the devastating impact of the armed conflict with high levels of civilian casualties. OHCHR/UNAMA had documented 1,692 civilian deaths for the period 1 January to 30 June 2018, the highest number for a comparable period over the past ten years. They acknowledged that the Government had taken steps to reduce civilian casualties during military operations and that it had endorsed the National Policy on Civilian Casualty Prevention and Mitigation and its implementation plan in October 2017.[21] The Secretary-General of the United Nations confirmed that the security situation remained highly unstable, and that complex and suicide attacks had become the leading cause of civilian casualties.[22] UNAMA documented a disturbing increase in attacks against places of worship, religious leaders and worshippers in 2017. The Mission was also deeply concerned by the significant increase in sectarian-motivated attacks targeting Shia Muslim congregations, mostly perpetrated by Islamic State in Iraq and the Levant-Khorasan Province.[23]

14. OHCHR/UNAMA were concerned about the increased use of aerial attacks by pro-government forces, noting that 353 civilian casualties had been caused by air strikes during the first half of 2018, which was a 52 per cent increase from the same period in 2017. The Mission attributed 52 per cent of all civilian casualties from aerial attacks to the Afghan Air Force, 45 per cent to international military forces and 3 per cent to undetermined pro-government forces.[24] It was concerned by the indiscriminate nature of the air strikes during the outdoor religious ceremony *dashtar bandi* in a Taliban-controlled area in Laghmani village, Kunduz Province, on 2 April 2018. The attack had occurred next to a madrasa where hundreds of men and boys had been gathered, and had killed at least 36, of which 30 were children. The Mission questioned the measures and concrete steps taken by the Government to prevent civilian casualties, in accordance with its Civilian Casualty Mitigation Policy. It recommended that Afghanistan ensure prompt, impartial and transparent investigations of the attack, accountability for perpetrators and appropriate redress for victims.[25] The Office of the Special Representative of the Secretary-General for Children and Armed Conflict called on armed groups to immediately cease all indiscriminate attacks against civilian targets and expressed concern regarding the effects of aerial operations on civilians, including children. It urged those planning and executing such attacks to take all necessary precautions to minimize civilian casualties.[26]

15. The Security Council condemned the terrorist attacks that had taken place in Kabul on 5 September 2018, claimed by Islamic State in Iraq and the Levant, and in Nangarhar on 11 September 2018. The attacks, at a sports centre, several schools and a protest rally, had resulted in at least 61 people killed and many more injured. The members of the Security Council underlined the need to hold perpetrators, organizers, financiers and sponsors accountable and bring them to justice.[27] UNAMA reported that at least 85 civilians had been killed and 413 injured in a suicide attack on a peaceful demonstration in Kabul on 23 July 2016, the vast majority of whom were Hazaras. A website affiliated with Islamic State in Iraq and the Levant had also claimed responsibility for the attack, with a series of anti-Shia statements. The Mission concluded that the attack had deliberately targeted civilians with the apparent aim of spreading terror among the civilian population, which might amount to a war crime.[28] It recommended that the anti-government elements cease the indiscriminate and disproportionate use of all improvised explosive devices in areas frequented by civilians, immediately stop targeted attacks against religious scholars,

mullahs and places of worship and culture, and hold accountable those conducting the indiscriminate attacks. It also recommended that the Government cease the indirect (without line of sight) use of mortars, rockets, grenades and other weapons, and aerial attacks in civilian-populated areas; develop and implement clear tactical directives, rules of engagement and other procedures in relation to the use of explosive weapons; immediately disband and disarm all illegal armed groups and militias and ensure accountability for human rights abuses caused by those groups; and investigate all allegations of violations of international humanitarian and human rights law and prosecute and punish those found responsible. The Mission recommended that the international military forces continue to review and strengthen pre-engagement targeting protocols to prevent civilian casualties, conduct post-operation reviews and investigations, and ensure transparency, accountability and compensation for victims and survivors.[29] It encouraged Taliban commanders and fighters to allow humanitarian demining efforts.[30]

16. The Committee against Torture remained deeply concerned by the specific situation of national security-related detainees, or conflict-related detainees, who were most at risk of being subjected to acts of torture or ill-treatment. The Committee was further concerned by reports that torture and physical abuse were widely and increasingly practised by the National Directorate for Security, the Afghan National Police and the Afghan Local Police, primarily to extract confessions or information to be used in criminal proceedings.[31] UNAMA acknowledged the genuine efforts made by the Government to address those concerns. However, it found compelling indications that detainees experienced torture during interrogation in numerous detention facilities run by the National Directorate for Security and the Afghan National Police throughout the country, including reports of torture and ill-treatment of juvenile detainees by the Afghan National Police and the Afghan National Border Police. The Mission also documented credible allegations of extrajudicial killings of individuals taken into custody by the same authorities in Kandahar. It concluded that only the credible prospect that those who committed torture would be held to account would deter those who carried out such crimes. The Mission reported that the Office of the Prosecutor of the International Criminal Court (ICC) had determined that there had been a reasonable basis to believe that war crimes of torture and related ill-treatment had been committed by government forces since 2003. It noted that there were allegations of the continuing commission of such war crimes up to the present day.[32] OHCHR/UNAMA reported that the new Anti-Torture Law, approved by the parliament on 15 July 2018, would be sent to the President for endorsement.[33]

17. The Committee against Torture was concerned that foreign elements were involved in the running of detention centres where national security-related detainees were held. It recommended that Afghanistan cooperate with the International Criminal Court and ensure that any foreign adviser or consultant respected the Convention against Torture.[34] The Committee urged Afghanistan to ensure that all instances and allegations of torture and ill-treatment were investigated promptly, effectively and impartially by an independent body; and ensure that alleged perpetrators were prosecuted and, if found guilty, convicted in accordance with the gravity of the acts committed.[35] The Committee urged Afghanistan to acknowledge its obligation to victims of torture and guarantee that they benefited from effective remedies and could obtain redress.[36]

18. The same Committee remained concerned by the widespread practice of arbitrary and illegal detention[37] and by the credible allegations that detainees in Parwan detention facilities were routinely tortured. It urged Afghanistan to take immediate measures to ensure that the administration of Parwan was transferred from the Ministry of Defence to the Ministry of Justice.[38]

19. The Committee remained deeply concerned about the poor conditions of detention, including severe overcrowding, inadequate sanitation and access to water, food of a sufficient amount and quality and medical services. It was particularly concerned by the situation of women in prisons and recommended taking measures to alleviate overcrowding in detention facilities.[39]

20. The Committee was concerned by the situation of detainees in solitary confinement, a practice applied to persons with epidemic diseases, persons with mental illnesses and terrorists for prolonged periods of time.[40]

2. Administration of justice, including impunity, and the rule of law[41]

21. The same Committee was deeply concerned about the various reports alleging that perpetrators of war crimes and gross human rights violations, including acts of torture, were still holding, or had been nominated for, official executive positions, some of them in government. It urged Afghanistan to ensure that no candidates for official executive positions had perpetrated any human rights violations and, if found responsible for past human rights violations, including torture, they were not nominated. It remained gravely concerned about the general climate and culture of impunity in Afghanistan, as evidenced by the large number of cases of alleged human rights violations involving senior State officials. The Committee urged Afghanistan to repeal provisions from the National Reconciliation, General Amnesty, and National Stability Law preventing the prosecutions of perpetrators of gross human rights violations, and to prosecute all perpetrators of past gross human rights violations.[42] OHCHR/UNAMA were also concerned about the 2008 Amnesty Law, which was intended to provide protection from prosecution for Afghan leaders suspected of involvement in human rights violations. They reported that the Chief Prosecutor of the International Criminal Court had submitted a formal request to the Pre-Trial Chamber for authorization to commence investigation of alleged war crimes and crimes against humanity committed since 1 May 2003, and the Government had pledged to cooperate with the Court.[43]

22. The Committee against Torture remained concerned by the low rate of prosecutions in relation to complaints of torture and ill-treatment, and by allegations that those complaints had been dismissed due to the absence of documentation of physical signs of torture, possibly because no medical examination had been conducted or it had been conducted too late to document them.[44]

23. The Committee recommended that Afghanistan adopt effective measures to ensure that coerced confessions were inadmissible in practice, to invite the judiciary to review all cases in which convictions had been based solely on confessions obtained through torture, and to take appropriate remedial measures.[45]

24. OHCHR/UNAMA were concerned about the lack of support staff, adequate security arrangements, access to legal defenders, psychosocial support, and health and educational services at juvenile rehabilitation centres, which might complicate the reintegration process following the release of detainees.[46]

25. OHCHR/UNAMA noted that the ongoing armed conflict affected women's access to justice.[47] The Mission noted that the failure of law enforcement authorities to take action undermined efforts to promote the rights of women, eroded the rule of law and contributed to an expectation of impunity. It observed that the gap in relation to the available range of punishments for criminal offences of violence against women contributed to the wide use of mediation. The Mission highlighted that the wide use of mediation in criminal offences of violence against women also promoted impunity, enabled its reoccurrence, eroded trust in the legal system and constituted a human rights violation on the part of Afghanistan. It recommended promptly investigating and prosecuting all cases of violence against women. It urged institutions involved in the elimination of violence against women not to refer such crimes to mediation, and to ensure the full implementation of the Elimination of Violence against Women Law and the 2018 Penal Code provisions. It encouraged them to consider amending the Law to expand the authorities' obligation to investigate and prosecute those crimes, particularly *ba'ad* (giving away girls to resolve family disputes), underage marriage and beating.[48]

26. The Committee against Torture was seriously concerned by the sentences still imposed by *jirga* courts and other parallel judicial mechanisms on the Afghan population, in particular on women, notably for "moral crimes", including the death sentence and corporal punishment. The Committee recommended that Afghanistan set up an effective system for monitoring and revising decisions of *jirga* courts in order to ensure that State officials did not recognize or carry out the judgments of parallel judicial mechanisms, and develop clear and mandatory instructions for prosecutors to identify which decisions of *jirga* courts should lead to criminal prosecution.[49]

3. Fundamental freedoms and the right to participate in public and political life[50]

27. OHCHR/UNAMA reported attacks against places of worship and persons exercising their right to religious worship, and targeted killings, abduction and intimidation of religious scholars and religious leaders, mainly by anti-government elements and particularly Islamic State in Iraq and the Levant-Khorasan Province. OHCHR/UNAMA observed that a pattern of attacks against Shia Muslims had emerged at the beginning of 2016, raising grave concerns regarding the right to freedom of religion or belief and the protection of minorities.[51] The Committee against Torture was also concerned by the numerous reports documenting the increase of propaganda promoting violent extremism in Afghanistan.[52]

28. OHCHR/UNAMA observed that civil society remained highly constrained. Civil society actors faced threats, intimidation and harassment in performing their professional responsibilities, particularly while monitoring and reporting from areas under the control or influence of anti-government elements. OHCHR/UNAMA reported on threats, harassment and arrests carried out against journalists by government departments on security-related grounds or for highlighting conflict-related harm to civilians attributed to pro-government forces.[53] The Committee against Torture remained deeply concerned about the numerous reports alleging that human rights defenders and journalists were subjected to threats, intimidation, harassment, surveillance, arbitrary detentions, forced disappearances and killings, and by the lack of adequate measures taken by Afghanistan to protect them. It urged Afghanistan to ensure that human rights defenders were able to conduct their work freely, without fear of reprisals or attacks; and to investigate promptly, thoroughly and impartially all violations committed against them, prosecute and punish appropriately those found guilty and provide redress to victims.[54] The United Nations High Commissioner for Human Rights also stated that attacks and threats made by anti-government elements against human rights defenders, and the increasing insecurity, had affected their ability to advocate for human rights and had created a climate of fear. The Government did not provide adequate support to ensure their safety.[55] The United Nations Educational, Scientific and Cultural Organization (UNESCO) urged the Government to investigate the cases of journalists who had been killed.[56]

29. UNESCO recommended that the Government decriminalize defamation and place it within a civil code in accordance with international standards.[57]

30. UNESCO encouraged the Government to amend the appointment system for the broadcast licensing authority to ensure that the body was independent.[58]

31. OHCHR/UNAMA noted that the Government had been making efforts to build a representative political system and national institutions by increasing the representation of ethnic communities and women, particularly through the parliamentary elections. Despite those efforts, women remained underrepresented in the political sphere at the national, provincial and district levels, and their representation in the institutions of governance remained low. Moreover, women's meaningful participation in decision-making processes required serious attention.[59]

4. Right to privacy and family life[60]

32. UNESCO encouraged Afghanistan to effectively implement legislation raising the legal age for marriage.[61]

C. Economic, social and cultural rights

1. Right to social security[62]

33. The Secretary-General of the United Nations was deeply concerned by the ongoing drought, which had been declared in April 2018 and had exacerbated the humanitarian situation. The low levels of precipitation experienced throughout the planting season were threatening the survival of more than two million people across two thirds of the country, who depended on agriculture for their livelihoods. Migration due to the drought had already been reported, and more than half a million people might be displaced if food and water

supplies were not provided in time. He called upon donors to respond to the urgent appeal by the United Nations for additional assistance to meet the basic needs of the drought-affected population.[63]

2. Right to an adequate standard of living[64]

34. UNHCR reported that approximately 39 per cent of the population lived below the poverty line and that an estimated 10 million people had limited or no access to essential health-care services. Some 1.9 million people were severely food insecure, largely due to a lack of sustainable job opportunities, while 40 per cent of children under the age of 5 were stunted.[65]

35. UNHCR observed that returning Afghan refugees and other Afghan undocumented persons comprised up to 40 per cent of the 2.2 million people living in informal settlements in Afghanistan. Those settlements did not provide sufficient protection against the cold during winter, adequate sanitation or potable water. Overcrowding resulted in a lack of privacy and increased the protection risks for women and girls.[66]

3. Right to health[67]

36. UNAMA documented incidents targeting and/or impacting health care and health-care workers. In 2017, the Mission and the United Nations Children's Fund (UNICEF) reported that anti-government elements had abducted health-care workers and continued to target ambulances. The Mission also recorded incidents of their intentional or indiscriminate damage to medical facilities. The military use of clinics remained a concern. In 2015, the Mission and UNICEF verified incidents of the military use of clinics by both pro-government forces and anti-government elements. They recommended that the Government ensure accountability for members of the Afghan security forces that attacked or occupied hospitals, and strengthen tracking, mitigation and accountability structures. They also recommended that the Government ensure access to immunization, particularly the polio vaccination, and use its maximum available resources to ensure the availability, accessibility and acceptability of good quality health care to all Afghans, in particular the groups rendered vulnerable by conflict.[68]

37. The United Nations Development Programme (UNDP) and the Food and Agriculture Organization of the United Nations (FAO) noted that key human rights violations continued to affect key populations, such as men who had sex with men, female sex workers and drug users. They continued to face discrimination and stigma that was affecting their access to health-care services, and they continued to be harassed, including by law enforcement agencies.[69]

4. Right to education[70]

38. UNHCR reported that up to 3.5 million children were out of school.[71] UNAMA and UNICEF reported an increase of conflict-related incidents involving threats and intimidation against education and education-related personnel. More than 369 schools were closed partially or completely. In addition to barriers to education arising from insecurity, throughout 2015, anti-government elements had deliberately restricted women and girls' access to education, which included the closure of girls' schools and complete bans on education for women and girls. The Mission and UNICEF recommended that all parties to the conflict uphold the right to education and ensure accountability for perpetrators of attacks on education institutions and personnel.[72] They also recommended that the Government use the maximum available resources, taking measures to abstain from acts that disrupted the process of education and ensuring accountability for members of the Afghan security forces who attacked or occupied schools.[73]

39. UNESCO noted that in the previous universal periodic review cycle, seven recommendations had highlighted the need to ensure access to education. UNESCO encouraged the Government to ensure that education was compulsory and to, progressively, provide for at least one year of compulsory pre-primary education in accordance with Sustainable Development Goal 4. It recommended adopting specific measures to address

literacy and access to education for all in a safe environment, with particular focus on girls and women, child labourers, internally displaced persons and persons with disabilities.[74]

40. UNESCO noted that despite the Government's efforts, girls and women faced serious challenges in accessing and completing their education, with education being more a privilege than a right. Members of Taliban groups had also openly declared their opposition to the education of girls and had used violent attacks against girls, their families and teachers. Early marriages often had a direct and adverse impact on girls' education, compromising their education opportunities and resulting in higher dropout rates.[75]

41. UNHCR recommended that Afghanistan prevent undue disruption to education for returnees and internally displaced children, through implementing flexible policies and expanding access to education in areas of high return and displacement, mitigating security threats that contributed to children being out of school, and employing female teachers to promote the enrolment and attendance of girls in school.[76]

D. Rights of specific persons or groups

1. Women[77]

42. The Committee against Torture remained deeply concerned by the high prevalence of violence against women, in particular domestic violence, rape, battery, laceration, crimes committed in the name of "honour" and cases of stoning.[78]

43. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) observed that women and girls continued to face persistent discrimination, violence, street harassment, forced and child marriage, severe restrictions on working and studying outside the home and limited access to justice. It noted that the Elimination of Violence against Women Law had the potential to contribute to improving women's access to justice, provided it was effectively implemented.[79]

44. The Secretary-General of the United Nations noted the decree amending the Penal Code with regard to crimes of violence against women and encouraged the full implementation of the national strategy and action plan on the elimination of violence against women.[80]

45. OHCHR/UNAMA noted that harmful acts of violence against women, including murder, beating, mutilation, child marriage and *ba'ad*, remained widespread, despite the Government's concrete efforts to criminalize those practices and establish measures for accountability. Harmful practices that had been criminalized under the Elimination of Violence against Women Law, such as forced and child marriage, honour killings, *ba'ad*, *badal* (the exchange of women for marriage purposes to settle disputes) and forced self-immolation, were often confused as being aspects of Islamic law or teachings and therefore ingrained in the local traditions. The Mission documented 280 cases of murder and "honour killings" of women from January 2016 to December 2017. It found that the police had often failed to forward those cases to prosecutors. The majority of Afghan women continued to be denied fair treatment before the law, as discriminatory provisions in laws and policies were still prevalent. As such, law enforcement and other judicial practitioners, including prosecutors and courts, had often failed to enforce the Elimination of Violence against Women Law, resulting in widespread impunity for the criminal acts of violence against women. OHCHR/UNAMA consistently found that implementation of the Elimination of Violence against Women Law had been slow and non-uniform.[81] UNESCO encouraged Afghanistan to adopt all necessary legal and regulatory measures to eliminate violence and discrimination against girls and women.[82] UNAMA and UNESCO urged Afghanistan to amend the Elimination of Violence against Women Law and ensure that legislation was consistent.[83]

46. OHCHR/UNAMA reported that anti-government elements, particularly the Taliban, continued to impose restrictions that seriously limited enjoyment of human rights, specifically for women and girls.[84]

47. OHCHR/UNAMA reported that the Government continued to carry out the Afghan national plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security, but its efforts were hampered by lack of funding.[85]

48. OHCHR/UNAMA noted that despite some progress, the number of women in positions of decision-making remained low. On 2 July 2017, five new female members had been nominated to the High Peace Council. The 480 members of the High Peace Council and the provincial peace councils included 65 women. However, only one of the seven sections of the Joint Secretariat of the Council was led by a woman.[86]

49. The Special Rapporteur on violence against women, its causes and consequences, recommended that the Government initiate a review, including recommendations in respect of provisions in the penal and family laws relevant to moral offences, of the files of all women and girls currently in detention for crimes generally, and more specifically for "moral crimes". She urged Afghanistan to consider alternatives to detention and address the question of transit houses for women who were released from detention, increase the number of shelters for victims of violence against women, and strengthen support services for victims.[87]

50. The Committee against Torture urged Afghanistan to increase the presence of women among the staff of the police and the judiciary, and to take all measures, including legal, to ensure that virginity tests were prohibited and that all officials ordering virginity tests were adequately sanctioned.[88]

2. Children[89]

51. The Office of the Special Representative of the Secretary-General for Children and Armed Conflict expressed deep concern over the continuing high number of children killed or maimed, and called on all parties to the conflict to respect their obligations under international law.[90]

52. UNICEF noted that from January to September 2017, some 437 individual child recruitment cases had been reported.[91] The Secretary-General of the United Nations and OHCHR/UNAMA were deeply concerned by the rise in the recruitment and use of children by parties to the conflict, which had increased threefold compared with the previous reporting period. They called upon all parties to the conflict to put an immediate stop to the practice and urged the Government to adopt the measures necessary to establish referral and rehabilitation mechanisms for victims.[92] The Office of the Special Representative of the Secretary-General noted that despite the important advances concerning the implementation of the action plan to end and prevent the recruitment and use of children made by Afghan National Defence and Security Forces, accountability for those recruiting or using children remained an important gap. It urged the Government to ensure accountability for all perpetrators.[93] UNESCO encouraged Afghanistan to continue taking necessary measures towards preventing and ending the recruitment of children.[94]

53. The Committee against Torture was deeply concerned by the numerous allegations that children in Parwan were detained with and under the same regime as adult detainees. The Committee urged Afghanistan to take immediate measures to ensure that they were transferred to juvenile detention centres and duly rehabilitated.[95] The Office of the Special Representative of the Secretary-General for Children and Armed Conflict also remained concerned about children detained on national security-related charges in adult prisons and called on the Government to adhere to national and international juvenile justice principles when dealing with those children. It encouraged the Government to develop alternatives to detention for children formerly associated with armed groups, focusing on reintegration and rehabilitation and using detention only as a last resort and for the shortest period of time.[96]

54. The Secretary-General of the United Nations reported that *bacha bazi* had been criminalized in the new Penal Code. However, communities in all regions of Afghanistan alleged the use of boys for the purpose of sexual abuse, including *bacha bazi*, by armed forces, particularly the Afghan Local Police and Afghan National Police, and identified poverty and unemployment as underlying causes.[97] The Committee against Torture remained deeply concerned that, despite the new legal framework, the practice of *bacha bazi* remained widespread, including among State officials, and it recommended that

Afghanistan promptly adopt and enforce the new law prohibiting *bacha bazi* and eradicate the practice.[98] It was also concerned by the widespread phenomenon of the forced and early marriages of girls, and recommended that Afghanistan ensure that those marriages were prohibited, those responsible were prosecuted and punished and the victims were rehabilitated.[99]

55. UNESCO encouraged Afghanistan to successfully implement legislation on child labour and ensure that such harmful practices did not interfere with school attendance and compulsory education.[100]

3. Persons with disabilities[101]

56. UNESCO noted that regular government schools typically had no institutionalized capacity to provide inclusive education or assist children with disabilities, often resulting in them dropping out of education. It encouraged Afghanistan to implement a system to identify, assess and meet the particular needs of children with disabilities.[102]

4. Migrants, refugees, asylum seekers and internally displaced persons[103]

57. UNHCR noted that asylum seekers and refugees had no effective legal or social protection. In August 2017, the Secretary-General of the United Nations had noted that Afghanistan was not in a post-conflict situation, where sufficient stability existed to focus on institution-building and development-oriented activities, but it was a country undergoing a conflict that showed few signs of abating. UNHCR recommended that Afghanistan enact national legislation and an asylum policy framework to codify its international commitments.[104]

58. The Secretary-General of the United Nations stated that in June 2018, 75,643 people had been newly displaced by conflict.[105] UNHCR reported that there were an estimated 1.84 million protracted and prolonged internally displaced persons. It noted that access to land, shelter, livelihood opportunities, water and sanitation facilities, skills development, girls' education and basic infrastructure remained a major gap and challenge to successful and sustainable reintegration. It noted that those needs could not be addressed without long-term development solutions linked to a humanitarian response, the mobilization of development actors and the inclusion of returnees into existing national programmes.[106]

59. The Special Rapporteur on the human rights of internally displaced persons reported that in 2016, over 623,000 Afghans had been internally displaced, continuing the upward trend of the previous four years, including a record number of 450,000 persons displaced in 2015. He noted the considerable challenges facing Afghanistan that had a clear impact on its ability to respond effectively to the situation of internally displaced persons. He recommended that the Government renew its commitment to the National Policy on Internally Displaced Persons and its implementation, and ensure that the prohibition of their illegal forced eviction was respected by all actors.[107] While noting that the endemic corruption was undoubtedly hampering delivery of humanitarian assistance and progress towards durable solutions, the Special Rapporteur highlighted that the United Nations, the international community and international donors should respond rapidly to requests for humanitarian funding and material assistance across humanitarian sectors. He recalled the responsibility of non-State armed groups in areas under their control to provide safe and unhindered access to allow humanitarian actors to conduct their work.[108]

5. Stateless persons[109]

60. UNHCR recommended that Afghanistan ensure official birth registration and issuance of birth certificates by the Ministry of Public Health for all children born in Afghanistan, including foreign nationals; and promote and facilitate access to individual civil documentation, particularly a *tazkira* (national identity certificate) for all Afghan nationals.[110]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Afghanistan will be available at www.ohchr.org/EN/Countries/AsiaRegion/Pages/AFIndex.aspx.
[2] For relevant recommendations, see A/HRC/26/4, paras. 136.4–136.7, 136.12, 136.19–136.20, 136.22–136.23, 136.171, 137.1–137.9, 137.20, 137.22–137.29, 138.5 and 138.7.
[3] CAT/C/AFG/CO/2, para. 51.
[4] UNHCR submission for the universal periodic review of Afghanistan, p. 3.
[5] CAT/C/AFG/CO/2, paras. 48–49.
[6] OHCHR/UNAMA submission for the universal periodic review of Afghanistan, p. 9.
[7] OHCHR, "Funding", in *OHCHR Report 2015*, p. 61.
[8] For relevant recommendations, see A/HRC/26/4, paras. 136.1–136.3, 136.8–136.11, 136.13, 136.38–136.39, 136.45, 136.89, 136.91, 136.119–136.129, 136.172–136.177, 137.10 and 137.21.
[9] CAT/C/AFG/CO/2, para. 31.
[10] OHCHR/UNAMA submission, p. 8.
[11] CAT/C/AFG/CO/2, para. 32.
[12] Ibid., para. 24.
[13] For relevant recommendations, see A/HRC/26/4, paras. 136.96 and 138.11.
[14] UNAMA, "Special report: Attack on a peaceful demonstration in Kabul, 23 July 2016" (Kabul, Afghanistan, October 2016), para. 57.
[15] For relevant recommendations, see A/HRC/26/4, paras. 136.36 and 136.43.
[16] UNHCR submission, pp. 3–4.
[17] For the relevant recommendation, see A/HRC/26/4, para. 136.81.
[18] CAT/C/AFG/CO/2, para. 26.
[19] For relevant recommendations, see A/HRC/26/4, paras. 136.49, 136.82–136.84, 136.118, 137.11 and 138.1–138.10.
[20] CAT/C/AFG/CO/2, paras. 33–34. See also CAT/C/AFG/CO/2/Add.1.
[21] OHCHR/UNAMA submission, pp. 1–2. See also UNAMA, "Special report: Attack on a peaceful demonstration in Kabul, 23 July 2016" (Kabul, Afghanistan, October 2016). See also UNAMA, "Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018" (July 2018). See also UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018) pp. 9–12 and 41.
[22] A/72/888–S/2018/539, para. 3.
[23] UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018) p. 3.
[24] OHCHR/UNAMA submission, p. 2. See also UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018) pp. 53–54.
[25] A/72/888–S/2018/539, para. 29 and UNAMA, "Special report: Air strikes in Dasht-e-Archi district, Kunduz Province, 2 April 2018" (Kabul, Afghanistan, May 2018) pp. 2 and 9.
[26] Office of the Special Representative of the Secretary-General for Children and Armed Conflict submission for the universal periodic review of Afghanistan, p. 3.
[27] www.un.org/press/en/2018/sc13498.doc.htm.
[28] UNAMA, "Special report: Attack on a peaceful demonstration in Kabul, 23 July 2016" (Kabul, Afghanistan, October 2016) pp. 2 and 9.
[29] UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018) pp. 6–7.
[30] Ibid., p. 18.
[31] CAT/C/AFG/CO/2, para. 9.
[32] OHCHR/UNAMA, "Treatment of conflict-related detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture" (Kabul, Afghanistan, April 2017). pp. 5, 7–8, 33, 35, 61 and 63. See also ICC, *Report on Preliminary Examination Activities 2016* (14 November 2016) pp. 43–51. Available from www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf.
[33] OHCHR/UNAMA submission, p. 6. See also OHCHR/UNAMA, "Treatment of conflict-related detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture" (Kabul, Afghanistan, April 2017).
[34] CAT/C/AFG/CO/2, paras. 19–20.
[35] Ibid., para. 12.
[36] Ibid., para. 42.
[37] Ibid., para. 13.
[38] Ibid., paras. 17–18.
[39] Ibid., paras. 29–30.
[40] Ibid., para. 29.

[41] For relevant recommendations, see A/HRC/26/4, paras. 136.14–136.15, 136.17, 136.46–136.48, 136.85, 136.103, 136.105–136.106, 136.166–136.168 and 137.13–137.19.
[42] CAT/C/AFG/CO/2, paras. 7–8.
[43] OHCHR/UNAMA submission, p. 8.
[44] CAT/C/AFG/CO/2, para. 11.
[45] Ibid., para. 28. See also CAT/C/AFG/CO/2/Add.1.
[46] OHCHR/UNAMA submission, p. 3.
[47] Ibid., p. 2.
[48] OHCHR/UNAMA, "Injustice and impunity: Mediation of criminal offences of violence against women" (Kabul, Afghanistan, May 2018) pp. 6–7 and 10–12. See also OHCHR/UNAMA submission, pp. 4–5.
[49] CAT/C/AFG/CO/2, paras. 39–40.
[50] For relevant recommendations, see A/HRC/26/4, paras. 136.61–136.63 and 136.77–136.80.
[51] OHCHR/UNAMA submission, pp. 2–3. See also UNAMA, "Special report: Attacks against places of worship, religious leaders and worshippers" (7 November 2017).
[52] CAT/C/AFG/CO/2, para. 21. See also A/HRC/34/41, para. 56.
[53] OHCHR/UNAMA submission, p. 7.
[54] CAT/C/AFG/CO/2, paras. 43–44.
[55] A/HRC/34/41, para. 68.
[56] UNESCO submission for the universal periodic review of Afghanistan, p. 7.
[57] Ibid., p. 6.
[58] Ibid.
[59] OHCHR/UNAMA submission p. 7.
[60] For relevant recommendations, see A/HRC/26/4, paras. 136.75–136.76 and 136.160–136.161.
[61] UNESCO submission, p. 6.
[62] For relevant recommendations, see A/HRC/26/4, paras. 136.25–136.26.
[63] A/72/888–S/2018/539, paras. 44 and 64.
[64] For relevant recommendations, see A/HRC/26/4, paras. 136.40–136.41.
[65] UNHCR submission, p. 4.
[66] Ibid.
[67] For relevant recommendations, see A/HRC/26/4, paras. 136.27 and 136.30.
[68] UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018) p. 14 and UNAMA/UNICEF, "Education and health care at risk" (April 2016) pp. 10, 22 and 24.
[69] UNDP and FAO submission for the universal periodic review of Afghanistan, p. 3.
[70] For relevant recommendations, see A/HRC/26/4, paras. 136.18, 136.28, 136.30–136.31, 136.37, 136.42, 136.44, 136.51, 136.65–136.68, 136.70, 136.86–136.88, 136.94–136.95, 136.107–136.110, 136.113, 136.170, 136.173 and 136.178.
[71] UNHCR submission, p. 4.
[72] UNAMA/UNICEF report, "Education and health care at risk" (April 2016), pp. 6 and 24. See also UNICEF, *Afghanistan Annual Report 2017* (February 2018).
[73] UNAMA/UNICEF report, "Education and health care at risk" (April 2016), p. 24.
[74] UNESCO submission, pp. 4–6.
[75] Ibid., p. 5.
[76] UNHCR submission, p. 4.
[77] For relevant recommendations, see A/HRC/26/4, paras. 136.21, 136.24, 136.31, 136.51–136.60, 136.69–136.76, 136.88, 136.90, 136.92–136.97, 136.99–136.102, 136.111, 136.131–136.165, 136.178, 137.13–137.14 and 138.12.
[78] CAT/C/AFG/CO/2, para. 37.
[79] See http://asiapacific.unwomen.org/en/countries/afghanistan.
[80] A/72/888–S/2018/539, paras. 32 and 60.
[81] OHCHR/UNAMA submission p. 4 and OHCHR/UNAMA, "Injustice and impunity: Mediation of criminal offences of violence against women" (Kabul, Afghanistan, May 2018) pp. 6 and 8.
[82] UNESCO submission, p. 6.
[83] Ibid., p. 6 and OHCHR/UNAMA, "Injustice and impunity: Mediation of criminal offences of violence against women" (Kabul, Afghanistan, May 2018) p. 11. See also OHCHR/UNAMA submission, pp. 4–5.
[84] OHCHR/UNAMA submission, p. 4.
[85] Ibid., p. 5.
[86] Ibid. pp. 5–6.
[87] A/HRC/29/27/Add.3, paras. 76–78.
[88] CAT/C/AFG/CO/2, para. 38.

[89] For relevant recommendations, see A/HRC/26/4, paras. 136.16, 136.21, 136.25, 136.27, 136.31, 136.37, 136.50, 136.57, 136.65, 136.67, 136.75–136.76, 136.95, 136.100, 136.102, 136.107–136.112, 136.114–136.117, 136.130, 136.155, 136.158–136.160, 136.165, 136.169, 137.2 and 137.32.

[90] Office of the Special Representative of the Secretary-General for Children and Armed Conflict submission, p. 3.

[91] UNICEF, *Afghanistan Annual Report* 2017 (February 2018), p. 23.

[92] A/72/888–S/2018/539, para 62, OHCHR/UNAMA submission, p. 3 and UNAMA, *Protection of Civilians in Armed Conflict, Annual report 2017* (Kabul, Afghanistan, February 2018), p. 13.

[93] Office of the Special Representative of the Secretary-General for Children and Armed Conflict submission, pp. 1–2.

[94] UNESCO submission, p. 5.

[95] CAT/C/AFG/CO/2, paras. 17–18.

[96] Office of the Special Representative of the Secretary-General for Children and Armed Conflict submission, p. 3.

[97] A/73/374–S/2018/824, paras. 36–37.

[98] CAT/C/AFG/CO/2, paras. 35–36.

[99] Ibid.

[100] UNESCO submission, p. 6.

[101] For the relevant recommendation, see A/HRC/26/4, para. 136.29.

[102] UNESCO submission, p. 5.

[103] For relevant recommendations, see A/HRC/26/4, paras. 136.31–136.34.

[104] UNHCR submission, pp. 1–2 and 5. For the relevant recommendation, see also A/HRC/26/4, para 136.34.

[105] A/72/888–S/2018/539, para 42.

[106] UNHCR, "2017 year-end report. Operation: Afghanistan" (July 2018) pp. 4–5. Available from http://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2017-Afghanistan-eng.pdf.

[107] A/HRC/35/27/Add.3, paras. 6, 76 and 80.

[108] Ibid., paras. 25 and 81–82.

[109] For the relevant recommendation, see A/HRC/26/4, para. 137.20.

[110] UNHCR submission, p. 5. See also A/HRC/35/27/Add.3, para. 28.